

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 738.

ALBERT JONES, APPELLANT,

vs.

**H. W. PERKINS, DEPUTY UNITED STATES MARSHAL, AND
M. G. WHITTLE, JAILOR OF RICHMOND COUNTY,
GEORGIA.**

**APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF GEORGIA.**

FILED OCTOBER 10, 1917.

(26,205)

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APPEAL

Petition for
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Petition for Writ of Habeas Corpus.

(Filed August 13, 1917.)

To the Honorable Emory Speer, Judge of the District Court of the United States for the Northeastern Division of the Southern District of Georgia:

The petition of Albert Jones, a resident of McDuffie County, State of Georgia, respectfully represents:

1. That your petitioner is being illegally held and restrained of his liberty, by being confined in the common jail of Richmond County, State of Georgia.

2. That the persons restraining the liberty of your petitioner, Albert Jones, *vs* H. W. Perkins, Deputy Marshal of the United States, and M. G. Whittle, Jailor of Richmond County, State of Georgia. The place of detention is at the Common Jail of Richmond County, Georgia. That the cause or pretense of the said restraint of your petitioner, is a warrant issued by C. J. Skinner, Jr., United States Commissioner, for violating the 5th Section of the Conscription Act of May 18th, 1917, for failing to register for military duty as required by said Act. A true and correct copy of said warrant is hereto attached to this petition, marked "Exhibit A," to which reference is prayed as often as the Court may deem proper.

3. That upon the 7th day of August, 1917, the said C. J. Skinner, Jr., United States Commissioner, did issue a final mittimus for the detention of the said Albert Jones, a copy of same is hereto attached and made a part of this petition and marked "Exhibit B," to which reference is prayed as often as the Court may deem proper.

4. Your petitioner further alleges that he is being illegally restrained of his liberty, because,

(a) That the said warrant under which your petitioner is being illegally restrained of his liberty and the final mittimus under which your petitioner is being illegally restrained of his liberty, were issued under and by virtue of the Act of Congress approved May 18th, 1917, entitled an "Act to authorize the President to increase temporarily military establishment of the United States Army."

2 That said Act is unconstitutional and void, and the authority exercised by virtue of it, is illegal and void, because, the said Act contravenes the Thirteenth Amendment to the Constitution of the United States, adopted in 1865, which said amendment declares, "Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

(b) That your petitioner has not been accused of any crime by virtue of said Act, but, that he is held for military duty and service,

which service he is unwilling to perform and undergo and which service is therefore compulsory and exerted over your petitioner against his will by authority of said Act of Congress.

(c) That your petitioner is a free citizen of the United States and of the State of Georgia, and is -- years old, and that he has not forfeited his freedom as a citizen of the United States or of the State of Georgia, in any way known to the laws of the United States or of the State of Georgia, prior to the said Act of Congress or since the said act of Congress was passed and is therefore being held in involuntary servitude under said Act of Congress and not for any reason other than that whatever.

(d) That it is the right of your petitioner, under the Common Law, to remain within the Realm of the United States as a free citizen of the said United States and of the State of Georgia, and not to be sent out of the Realm without his consent, which is now attempting to be done.

(e) That your petitioner is now being detained illegally in the manner and form herein set forth for the purpose of being sent beyond the seas outside of the United States or any territory thereof to do military duty in Europe.

(f) That such forcible expulsion or banishment of your petitioner from his native land without his consent and against his will, violates his natural rights as a citizen of the United States and your petitioner is entitled to the protection of his rights under the Statutory Law, the Constitution of the United States and the Common Law.

3 (g) That your petitioner is being deprived of his liberty "without due process of law," in that, he is being forced to give up all of his rights as an American free born citizen, to do military service without his consent and against his will.

Wherefore, your petitioner alleges that his restraint is illegal and without regard to his legal and constitutional rights, as above set forth, and prays that Your Honor issue the writ of Habeas Corpus directed to H. W. Perkins, Deputy Marshal of the United States, and M. G. Whittle, Jailor of Richmond County, Georgia, requiring them to bring your petitioner before your Honor at the time and place to be specified in the writ, for the purpose of examining into the cause of your petitioner's detention.

ALBERT JONES.

GEORGIA.

Richmond County:

Personally appeared before me an officer duly authorized by law to administer oaths, Albert Jones, who after being duly sworn deposes and says, that the facts stated and set forth in the above and foregoing petition are true.

ALBERT JONES.

Sworn to and subscribed to before me this the 9th day of August, 1917.

C. J. SKINNER, JR.,

U. S. Commissioner.

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EXHIBIT "A."

Warrant to Apprehend.

The President of the United States of America to the Marshal of the United States for the Southern District of Georgia, and to his Deputies, or any or either of them:

Whereas, S. N. Allred, Special Agent, has made complaint in writing under oath before me, the undersigned, a United States Commissioner, for the Southern District of Georgia, Northeastern Division, charging that Albert Jones, late of McDuffie County, in the State of Georgia, did, on or about the 5th day of June, A. D. 1917, at Thomson, R. F. D. #4, in said District, in violation of Section 5 of the Act of May 18th, 1917, unlawfully fail to register for military duty as required by said Act, contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the United States of America;

Now, Therefore, You are Hereby Commanded, in the name of the President of the United States of America, to apprehend the said Albert Jones, wherever found in your District, and bring his body forthwith before me or any other Commissioner having jurisdiction of said matter, to answer the said complaint, that he may then and there be dealt with according to law for the said offense.

Given under my hand and seal this 3rd day of August, A. D. 1917.

[SEAL.]

C. J. SKINNER, JR.,

*United States Commissioner as Aforesaid.**Marshal's Return.*

Received this warrant on the 4th day of August, 1917, at Augusta, Ga., and executed the same by arresting the within named Albert Jones at 3 mi. West of Mesena, on the 4th day of August, 1917, and have his body now in Court as within I am commanded.

J. S. DAVIS,

U. S. Marshal, So. District of Ga.

Per H. W. PERKINS,

Deputy.

August 4th, 1917.

EXHIBIT "B."

Final Mittimus.

The President of the United States of America to the Marshal of the Southern District of Georgia and to the Keeper of the Jail of Richmond County, in the State of Georgia, Greeting:

Whereas, Albert Jones has been arrested upon the oath of S. N. Allred, Special Agent, for having, on or about the 5th day of June, 1917, in said District, in Violation of Section 5 of the Act of May 18th, 1917, unlawfully failed to register for military duty as required by said Act; And, after an examination being this day had by me, it appearing to me that said offense had been committed, and probable cause being shown to believe said Albert Jones, committed said offense as charged, I have directed that said Albert Jones be held to bail in the sum of \$1,000.00, to appear at the first day of the next term of the District Court of the United States for the Southern District of Georgia, Northeastern Division, at Augusta, and from time to time thereafter to which the case may be continued and he having failed to give the required bail;

Now, These are Therefore, in the name and by the authority aforesaid, to command you, the said Marshal, to commit the said Albert Jones to the Custody of the Keeper of the said Jail of Richmond County, and to leave with said Jailer a certified copy of this writ; and to command you, the Keeper of the Jail of said County, to receive the said Albert Jones, prisoner of the United States of America, into your custody, in said Jail, and him there safely to keep until he be discharged by due course of law.

In witness whereof, I have hereunto set my hand and seal at my office in said District, this the 7th day of August, A. D., 1917.

[SEAL.]

C. J. SKINNER, Jr.,

*United States Commissioner for said Southern
District of Georgia, Northeastern Division.*

Jailor's Receipt for Prisoner.

Received from J. S. Davis, United States Marshal, the body of the within named Albert Jones, for safe keeping, pursuant to the within writ. This August 7, 1917.

M. G. WHITTLE,
Jailor Richmond County.

Marshal's Return on Commitment.

Received this Mittimus with the within named Prisoner, on the 7th day of August, A. D., 1917, and on the same day I committed the said Prisoner to the custody of the Jail Keeper named in said

Mittimus, with whom I left at the same time a certified copy of this Mittimus.

Dated August 7th, 1917.

J. S. DAVIS,
United States Marshal, Southern District of Ga.,
By H. W. PERKINS, *Deputy.*

Mittimus issued and filed August 7th, 1917.

Returned and entered August 7th, 1917.

C. J. SKINNER, JR.,
United States Commissioner.

7 *Return of Service of Petition for Writ of Habeas Corpus.*

UNITED STATES OF AMERICA,
Southern District of Georgia:

I certify that at Macon, Bibb County, Georgia, within my district, on August 14th, 1917, I personally served the within Petition, Order and Rule to Show Cause, upon the within named E. M. Donalson, United States Attorney for the Southern District of Georgia, by handing to him a copy hereof, and at the same time exhibiting to him this Original.

The Return of J. S. DAVIS,
United States Marshal,
By JOHN C. HECKLE,
Office Deputy.

Dated at Macon, Ga., this August 14, 1917.

UNITED STATES OF AMERICA,
Southern District of Georgia:

I certify that at Augusta, Richmond County, Georgia, within my district, on August 18, 1917, I personally served the within Petition, Order and Rule to Show Cause, upon the within named M. G. Whittle, Jailor of Richmond County, Georgia, by handing to him a copy hereof, and at the same time exhibiting to him this Original.

The Return of JOSEPH S. DAVIS,
U. S. Marshal,
By H. W. PERKINS,
Deputy.

Dated at Augusta, Ga., this August 18, 1917.

UNITED STATES OF AMERICA,
Southern District of Georgia:

I certify that at Augusta, Richmond County, Georgia, within the Southern District of Georgia, on August 17, 1917, I personally served the within Petition, Order and Rule to show cause, upon the within

named H. W. Perkins, Deputy U. S. Marshal, by handing to him copy hereof, and at the same time exhibiting to him this Original

C. J. SKINNER, JR.,
P. O. Augusta, Ga.

Dated at Augusta, Ga., this August 17, 1917.

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Order and Rule to Show Cause.

(Entered and Filed August 13, 1917.)

Mt. AIRY, Ga., August 10th, 1917.

The application herein having been made to Emory Speer, Judge. It is ordered, that the persons named as holding the applicant in custody be and they are hereby ordered to show cause before me at the above stated place on Saturday, August the 18th, 1917, at 11 a. m. why the writ sought herein should not be granted.

Ordered further, that the respondents be served with a copy of this application and this order, and that the United States Attorney for the Southern District of Georgia be also served forthwith.

EMORY SPEER, Judge.

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Answer of Respondents to Petition for Writ of Habeas Corpus.

(Filed August 16, 1917.)

In the District Court of the United States for the Northeastern Division of the Southern District of Georgia,

ALBERT JONES

vs.

H. W. PERKINS, Deputy U. S. Marshal; M. G. WHITTLE, Jailor
Richmond County, Georgia.

Now come the respondents in the above stated case and make their answer to the petition for Writ of Habeas Corpus, and certify to the Court as follows:

I.

Respondents deny the allegations of the first paragraph of the petition.

II.

Respondents admit that the said Albert Jones is now confined in the common jail of Richmond County, Georgia, under a warrant

issued by C. J. Skinner, Jr., United States Commissioner for said District, for a violation of Section Five of an Act of Congress, entitled, "An Act to Authorize the President to Increase Temporarily the Military Establishment of the United States", approved May 18th, 1917, and respondents say that the detention of said Albert Jones is in every respect legal.

III.

Respondents admit that, on the seventh day of August, 1917, the said C. J. Skinner, Jr., United States Commissioner, did issue a final mittimus for the detention of the said Albert Jones, and that the copy of said mittimus, attached to the petition in this case, is true and correct.

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IV.

Respondents deny that the petitioner, Albert Jones, is being illegally restrained of his liberty, as set forth in the fourth paragraph of plaintiff's petition; but, to the contrary, say that the Act of Congress, referred to therein, is in every respect constitutional and valid, and not in contravention of the Thirteenth Amendment of the Constitution of the United States, or any other part of the Constitution.

And now, having fully answered and complied in all respects with the order of this Honorable Court, your respondents pray that the Writ of Habeas Corpus be denied, and that a judgment be rendered against the plaintiff in this case for all costs.

E. M. DONALSON,
Attorney for Respondents.

GEORGIA,

Richmond County:

Personally appeared before the undersigned an officer duly authorized to administer oaths, H. W. Perkins and M. G. Whittle, who being duly sworn say, that they have read the answer filed in their behalf as respondents in the above stated case, and that the same is true, as they verily believe.

H. W. PERKINS,
M. G. WHITTLE.

Sworn to and subscribed before me this August 17, 1917.

C. J. SKINNER, Jr.,
Deputy Clerk U. S. Court.

11 *Order Denying Writ of Habeas Corpus.*

(Entered and Filed Sept. 8, 1917.)

In the District Court of the United States for the Northeastern Division of the Southern District of Georgia.

In re ALBERT JONES and JOHN STORY.

Application for Writs of Habeas Corpus.

The petitions for habeas corpus in these causes having been presented to the undersigned at Mt. Airy, Georgia, and having been assigned for trial on August 18th at said place, and counsel for the relators and for the respondents, the Sheriff of Richmond County and the Deputy Marshal of the United States, represented by the United States Attorney for the Southern District of Georgia, having been fully heard, and the Court having taken time for advisement, it is now on the 20th day of August, 1917, by the Court Ordered that the writs of habeas corpus sought in the above stated applications, they both having been heard together, be and the same are hereby denied.

This 20th day of August, A. D., 1917.

EMORY SPEER,
Judge.

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Opinion of the Court.

(Filed September 22nd, 1917.)

In the District Court of the United States for the Northeastern Division of the Southern District of Georgia.

Petition for Habeas Corpus.

JOHN STORY

VS.

H. W. PERKINS, Deputy U. S. Marshal, and M. G. WHITTLE, Jailor.

Petition for Habeas Corpus.

ALBERT JONES

VS.

H. W. PERKINS, Deputy U. S. Marshal, and M. G. WHITTLE, Jailor.

J. Gordon Jones, Attorney for John Story and Albert Jones.
Erle M. Donalson, U. S. Attorney, for Defendants.

Decided August 20th, 1917, at Mt. Airy, Ga.

SPEER, Judge:

Albert Jones and John Story imprisoned in the Richmond County jail under commitment for unlawfully failing to register for military duty as required by the Act of Congress of May 18th, 1917, known popularly as the Selective Draft law, have made application for writs of habeas corpus. They allege that their imprisonment is unlawful. They charge that the enactment, made to raise a national army, is violative of the Constitution of the United States. It is insisted that the authority exercised by the United States under this legislation is void because the Act contravenes the 13th Amendment. This provides that "neither slavery nor involuntary servitude except as punishment for crime whereof the parties shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction." To agree to this contention we must conclude that a soldier is a slave. Nothing could be more abhorrent to the truth, nothing more degrading to that indispensable and gallant body of citizens trained in arms, to whose manhood, skill and courage is, and must be committed the task of maintaining the very existence of the nation and all that its people hold dear. The Grand Army of the Republic, the Confederate Veterans and the Sons of Veterans are not maintained to

preserve the traditions of slavery. Nations do not pension slaves, to commemorate their valor. They do not "Give in charge their names to the sweet lyre"; nor does

"Sculpture in her turn
Give bond in stone and ever-during brass
To guard and to immortalize the trust."

The sole additional ground of the petition is, that by the Common Law it was the right of petitioners to "remain within the realm," and that this right should now be held to relieve them from military service beyond the borders of the United States. The reply is, that the Common law, that is the immemorial English law, can not prevail as to the United States, or its people, against the explicit provision of an Act of Congress. Nor has a Court of the United States power to declare an Act of Congress invalid because it is inimical to the Common Law. The touchstone for such judicial power is the Constitution and nothing else. It remains to be determined whether the Constitution has conferred authority on Congress to enact this law. Clause 11 of Article 1, Section 8 of the Constitution empowers Congress "to raise and support armies." This power is plenary. It is not restricted in any manner. Congress may summon to its army thus authorized every citizen of the United States. Since it may summon all, it may summon any. Said the Supreme Court in the case of *The United States vs. Tarble*, 13th Wallace, 408, "Among the powers assigned to the national government, is the power to raise and support armies * * * Its control over the subject is plenary and exclusive. It can determine without question from any states authority how the army shall be raised, whether by voluntary enlistment or forced draft, the age at which the soldiers shall be received and the period for which they shall be taken; the compensation he shall be allowed, and the service to which he shall be assigned."

It is urged that by this legislation, Congress has taken over and in this way conscripted the National Guard. This, it is said is the State Militia. It is contended under clause 14 of the Article and Section above quoted that such militia can be used only to execute the laws of the Union to suppress insurrection and repel invasion. Since the petitioners are not members of the National Guard, in no event could their rights in this way be affected. But the National army is not the militia. "An army is a body of men whose business is war," *Burroughs vs. Peyton*, 16 Gratt, Virginia, 475. The militia is, "A body of men composed of citizens occupied temporarily in the pursuit of civil life, but organized by discipline and drill, and called into the field for temporary military service when the exigencies of the country require it." *Idem*.

As we have seen, Congress in the exercise of the power to raise armies may summons to the colors every citizen. It follows that the States even if they so desire, cannot defeat this power, by enlisting such citizens in the State troops or National Guard. Was this

possible, it would be also possible for the States to prevent altogether the raising of armies by Congress.

There remains to be considered the contention that Congress cannot employ the National Army to be created by virtue of this legislation in foreign lands or beyond the seas. If this is true, then indeed, is our country impotent. Then must its people indeed suffer in their own homes, in their cities and on their farms, all the horrors of invasive war. Its military leaders must ignore the settled principles of their science, that the best defensive is the most vigorous offensive. The keen swords of its sons instead of flashing over the guard of the enemy and piercing his vitals, must be held immovable as if on an anvil to be shattered by the reiterated blows of his hammer. Deprived of our aid in the field, successive defeat will visit and crush our allies. Their lands conquered, their natives taken, we must then in turn, solitary and alone, meet on our own soil the impact of victorious and barbarous legions whose laws do not forbid them service abroad, but which inspire their
 15 fierce and veteran armies to deeds of conquest in every clime.

Was this contention maintainable, the misguided men who for their personal ease advance it, might all too late discover their fatal error. They would discover it in the flaming homesteads, in the devastated fields, in murdered brethren, in outraged wives and daughters; in their lands, their factories, their merchandise; their stock, their all, coolly appropriated by the conqueror, as his own; their institutions destroyed; homeless, landless and beggars to spend whatever interval of degraded life remains to them in abject slavery to the conqueror. But our organic law does not so shackle the gigantic energies of the great Republic. After the enumeration of the powers of Congress, among them as we have seen, "the power to raise and support armies," in Clause 17 of Article I, Section 8, it provides the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof." Here is the great reservoir of power to save the national existence.

It is said that there is no express power to send armies beyond the sea. True; but there is no express power to enact the criminal laws of the United States; none to convey the public domain, to build transcontinental railroad, nor to construct the Isthmian Canal; nor to create the Interstate Commerce Commission; nor to declare the Monroe Doctrine; nor to make the Louisiana Purchase; nor to buy Alaska, or to take over Porto Rico and the Philippines. This has all been done under the great power to promote the general welfare, just as the selective army will be created under the law here assailed, "to provide for common defence." And beyond and above all, is the inherent power of every nation however organized to utilize its every man and its every energy to defend its liberty and to defeat the migration to its soil of mighty nations of ferocious warriors, whose barbarous inhumanity for three years has surpassed all others since the death of Attila, the Scourge of God. The writs are denied.

Petition for Appeal.

(Filed September 19, 1917.)

In the District Court of the United States for the Northeastern
Division of the Southern District of Georgia.

No. 77.

ALBERT JONES, Petitioner,

vs.

H. W. PERKINS, Deputy United States Marshal, and M. G. WHITTLE,
Jailer of Richmond County, Georgia.

Application for Writ of Habeas Corpus.

Petition for Appeal.

To the Honorable Emory Speer, Judge of the District Court of the
above-stated District:

The above named petitioner, Albert Jones, shows that the District Court of the United States for the Southern District of Georgia, on the 20th day of August, A. D., 1917, entered an order in the above stated case, denying and refusing to issue the writ of habeas corpus prayed for by your petitioner.

And your said petitioner, Albert Jones, feeling aggrieved by said order so rendered and entered as aforesaid, and conceiving that in said order and the entry thereof and in the proceedings had prior thereto in said cause, certain errors were committed to the prejudice of your petitioner, all of which will more fully appear in the assignment of errors filed with this petition, doth appeal from said order to the Supreme Court of the United States, and prays that this his appeal be allowed and that citation be issued as provided by law, and that a transcript of the record, proceedings and documents upon which said order was based, duly authenticated, to be sent to the Supreme Court of the United States, sitting at Washington, D. C., under the rules of said Court in such cases made and provided.

This the 17th day of September, A. D., 1917.

J. GORDON JONES,
Attorney for Petitioner.

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Order Allowing Appeal.

(Entered and Filed September 19th, 1917.)

In the District Court of the United States for the Northeastern
Division of the Southern District of Georgia.

No. 77.

ALBERT JONES, Petitioner,

vs.

H. W. PERKINS, Deputy United States Marshal; M. G. WHITTLE,
Jailor of Richmond County, Georgia.

Application for Writ of Habeas Corpus.

Order Allowing Appeal.

On motion of Thomas E. Watson, J. Gordon Jones and L. D. McGregor, Esquires, solicitors and counsel for complainant, it is hereby ordered, that an appeal to the Supreme Court of the United States from the order heretofore filed and entered herein be and the same is hereby allowed, and that a certified transcript of the record, testimonies, exhibits, stipulations and all proceedings be forthwith transmitted to said Supreme Court of the United States.

It is further ordered that the bond on appeal be fixed at the sum of \$250.00, to be approved by C. J. Skinner, Jr., as Deputy Clerk, but that the judgment of the Court is in no way superseded.

Dated this the 17th day of September, A. D., 1917.

EMORY SPEER, *Judge.*

Assignment of Errors.

(Filed September 19, 1917.)

In the District Court of the United States for the Southern District of Georgia.

No. 77.

ALBERT JONES, Appellant,

vs.

H. W. PERKINS, Deputy United States Marshal; M. G. WHITTLE,
Jailor of Richmond County, Georgia.

Application for Writ of Habeas Corpus.

Assignment of Errors.

Now comes Albert Jones, appellant in the above entitled cause, and files the following assignment of errors upon which he will rely upon his prosecution of the appeal in the above entitled cause from the order made by this Honorable Court on the 20th day of August, A. D., 1917.

First.

That the United States District Court for the Southern District of Georgia, erred in refusing and denying the writ of habeas corpus sought by appellant.

Second.

That the United States District Court for the Southern District of Georgia, erred in sustaining the constitutionality of the Act of Congress approved May 18th, 1917, entitled an "Act to authorize the President of the United States to increase temporarily military establishment of the United States", and in not adjudging said Act of Congress void and unconstitutional because the same contravenes the Thirteenth (13) Amendment to the Constitution of the United States, which declares "Neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Third.

Because the United States District Court for the Southern District of Georgia, erred in holding appellant's detention legal, because appellant was unwilling to perform and undergo compulsory military service under the aforesaid Act of Congress, of May 18th, 1917.

Fourth.

Because the United States District Court, for the Southern District of Georgia, erred in holding that compulsory military service under the aforesaid Act of Congress, of May 18th, 1917, was not, and is not "involuntary servitude" within the intent and meaning of the Thirteenth (13) Amendment to the Constitution of the United States.

Fifth.

Because the United States District Court for the Southern District of Georgia, erred in holding that appellant, contrary to his common law rights, as citizen of the United States, was and is liable to compulsory military service beyond the seas and without the realm of the United States, under the terms of the Act of Congress aforesaid of May 18th, 1917.

Sixth.

Because the United States District Court for the Southern District of Georgia, erred in denying appellant's rights as a free citizen of the United States to remain at large with the full enjoyment of his personal liberty within the territorial limits of the United States, the Act of Congress aforesaid of May 18th, 1917, to the contrary notwithstanding.

Seventh.

Because the United States District Court for the Southern District of Georgia, erred in holding that appellant has and has not been deprived of his liberty "without due process of law."

20 Wherefore, the appellant prays that said order be reversed and that said District Court for the Southern District of Georgia, be ordered to enter a judgment reversing the decision of the lower Court in said proceedings.

J. GORDON JONES,

Attorney for Appellant.

P. O. Address, Cordele, Ga.

Appeal Bond.

(Filed September 19, 1917.)

In the District Court of the United States for the Southern District
of Georgia.

No. 77.

ALBERT JONES, Petitioner,

VS.

H. W. PERKINS, Deputy Marshal of the United States, and M. G.
WHITTLE, Jailor of Richmond County, Georgia, Respondents.

Application for Writ of Habeas Corpus.

Know all men by these presents, that we, Albert Jones, as Principal, and W. W. Ramsey, of the County of Richmond, Georgia, and G. W. Legwen, of the County of Richmond, Georgia, as Sureties, are held and firmly bound unto H. W. Perkins, Deputy Marshal of the United States, and M. G. Whittle, Jailor of Richmond County, Georgia, in the sum of Two Hundred and Fifty Dollars (\$250.00), lawful money of the United States, to be paid to them and their respective executors, administrators and successors; to which payment well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors and administrators, by these presents.

Sealed with our seals and dated this the 19th day of September,
A. D. 1917.

Whereas, the above named Albert Jones has prosecuted an appeal to the Supreme Court of the United States to reverse the order and judgment of the District Court of the United States for the Southern District of Georgia, in the above entitled cause;

Now Therefore, the condition of this obligation is such that if the above named Albert Jones shall prosecute his said appeal to effect and answer all costs if he fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and effect.

ALBERT JONES, [L. s.]

Principal.

GLENN W. LEGWEN, [L. s.]

Surety.

W. W. RAMSEY, [L. s.]

Surety.

22 UNITED STATES OF AMERICA,
State of Georgia, County of Richmond, ss:

On the 19th day of September, 1917, personally appeared before me the persons described in and who executed duly the foregoing instrument as the parties thereto, and who, to-wit, Albert Jones, W. W. Ramsey and G. W. Legwen, are respectively known to me to be the parties who executed the same and who are described therein, and respectively acknowledged, each for himself, that they executed the same as of their free will and act and deed for the purpose therein set forth,

And the said W. W. Ramsey and G. W. Legwen, being respectively by me sworn, says, each for himself, and not one for the other, that he to-wit, W. W. Ramsey, is a resident and householder of the County of Richmond, Georgia, and he, to-wit, G. W. Legwin, is a resident and householder of the County of Richmond, Georgia, and that he, W. W. Ramsey, is worth the sum of \$20,000.00 Dollars, over and above his just debts and legal liabilities and property exempt from execution; and that he, G. W. Legwen, is worth the sum of \$10,000.00 Dollars, over and above his debts and legal liability and property exempt from execution.

ALBERT JONES,
GLENN W. LEGWEN,
W. W. RAMSEY.

Subscribed and sworn to before me this the 19th day of September, A. D. 1917.

[SEAL.]

C. J. SKINNER, JR.,
Deputy Clerk of the United States Court.

Under and by virtue of an order passed by the Honorable Emory Speer, Judge of the District Court of the United States for the Southern District of the State of Georgia, issued and signed upon the 17th day of September, A. D. 1917, requiring the undersigned to approve the bond in the above and foregoing case, I, C. J. Skinner, Jr., Deputy Clerk of the United States Court, do hereby approve the within bond both as to sufficiency and form. This the 19th day of September, A. D. 1917.

[SEAL.]

C. J. SKINNER, JR.,
*Deputy Clerk of the United States Court for the
Southern District of Georgia.*

Citation on Appeal.

(Filed September 19, 1917.)

In the District Court of the United States for the Southern District
of Georgia.

No. 77.

ALBERT JONES, Petitioner,

vs.

H. W. PERKINS, Deputy United States Marshal, and M. G. WHITTLE,
Jailer of Richmond County, Georgia, Respondents.

Application for Writ of Habeas Corpus.

United States of America to H. W. Perkins, Deputy Marshal of the
United States, and M. G. Whittle, Jailer of Richmond County, and
E. M. Donalson, Esq., United States Attorney for the Southern
District of Georgia:

You and each of you, are cited and admonished to be and appear
at the Supreme Court of the United States, to be held at the City
of Washington, in the District of Columbia, on the first day of Octo-
ber, A. D. 1917, pursuant to an order allowing an appeal filed and
entered in the Clerk's office of the District Court of the United States
for the Southern District of Georgia, from a final order signed, filed
and entered on the 20th day of August, A. D. 1917, in that certain
cause (same being an application for writ of habeas corpus), No. 77,
wherein Albert Jones, is petitioner and you are defendants and ap-
pellees, to show cause if any there be, why the order refusing and
denying issuance of the writ of habeas corpus applied for rendered
against the said appellant, as in said order allowing appeal men-
tioned, should not be corrected, and why justice should not be done
to the parties in that behalf.

Witness the Honorable Emory Speer, United States District Judge
for the Southern District of Georgia, this the 17th day of September,
A. D. 1917, and of the Independence of the United States of America
the one hundred and forty-second year.

EMORY SPEER,

*U. S. District Judge for the Southern
District of Georgia.*

Acknowledgment of Service on Citation.

Service of the within citation acknowledged this 20th day of
September, 1917.

E. M. DONALSON,
U. S. Attorney.

Service of the within citation acknowledged this 20th day of September, 1917.

H. W. PERKINS,
Deputy U. S. Marshal.

Service of the within citation acknowledged this 20th day of September, 1917.

M. G. WHITTLE,
Jailor Richmond Co., Ga.

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Clerk's Certificate.

UNITED STATES OF AMERICA,
Southern District of Georgia,
Northeastern Division, ss:

I, Cook Clayton, Clerk of the District Court of the United States for the Southern District of Georgia, do hereby certify that the above and foregoing contains a full, true and correct copy of the record, the assignment of errors, and all other papers and proceedings, as directed by law to be made, necessary in the hearing of the appeal of the relator, in the case lately pending in said Court, numbered Seventy-Seven on the Common Law Docket of said Court, entitled, Albert Jones, Petitioner, versus H. W. Perkins, Deputy United States Marshal, and M. G. Whittle, Jailor of Richmond County, Georgia, respondents, as the same remains on file and of record in my said office, at Augusta, in said District.

Witness my official signature and the seal of said Court affixed at Augusta, in said District, this the 29th day of September, in the year of our Lord one thousand nine hundred and seventeen.

[Seal U. S. District Court, So. Dist. of Georgia.]

COOK CLAYTON,
Clerk,

By C. J. SKINNER, JR.,
Deputy Clerk.

Endorsed on cover: File No. 26,205, S. Georgia D. C. U. S. Term No. 738. Albert Jones, appellant, vs. H. W. Perkins, deputy United States marshal, and M. G. Whittle, jailor of Richmond County, Georgia. Filed October 10th, 1917. File No. 26,205.